



**FEDERAL ELECTION COMMISSION**  
WASHINGTON, D.C. 20463

**Sharon A. Gunsolus, Treasurer**  
**Kuhl for Congress**  
**10 Ganesvoort Street**  
**Suite 101**  
**Bath, NY 14810**

**OCT 21 2009**

**RE: MUR 6219**  
**Kuhl for Congress**

**Dear Ms. Gunsolus:**

In the normal course of carrying out its supervisory responsibilities, the Federal Election Commission (the "Commission") became aware of information suggesting Kuhl for Congress and you, in your official capacity as treasurer, may have violated the Federal Election Campaign Act of 1971, as amended (the "Act") and the Commission's regulations. On October 15, 2009, the Commission found reason to believe that Kuhl for Congress and you, in your official capacity as treasurer, violated U.S.C. § 441i(e)(1)(A) and 11 C.F.R. § 110.3(d). Enclosed is the Factual and Legal Analysis that sets forth the basis for the Commission's determination.

We have also enclosed a brief description of the Commission's procedures for handling possible violations of the Act. In addition, please note that you have a legal obligation to preserve all documents, records and materials relating to this matter until such time as you are notified that the Commission has closed its file in this matter. See 18 U.S.C. § 1519. In the meantime, this matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public.

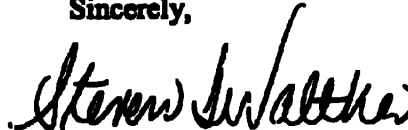
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Ms. Sharon Gunsolus, treasurer  
Kuhl for Congress  
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If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed Designation of Counsel form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

We look forward to your response.

Sincerely,



Steven T. Walther  
Chairman

Enclosures  
Factual and Legal Analysis

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**FEDERAL ELECTION COMMISSION**

**FACTUAL AND LEGAL ANALYSIS**

**RESPONDENTS:** Kuhl for Congress and **MUR 6219**  
Sharon A. Gunsolus, in her official  
capacity as treasurer

**I. GENERATION OF MATTER**

This matter was initiated by the Federal Election Commission ("Commission") pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. See 2 U.S.C. § 437g(a)(2).

**II. FACTUAL AND LEGAL ANALYSIS**

**A. Background**

The Audit Division conducted an audit of Kuhl for Congress and Sharon A. Gunsolus, in her official capacity as treasurer,<sup>1</sup> ("Federal Committee") covering the period May 16, 2003, through December 31, 2004 ("audit period"). John "Randy" Kuhl, Jr., an incumbent New York State Senator, was a candidate for a U.S. House of Representatives seat in New York's 29<sup>th</sup> Congressional District in 2003-2004 and designated the Federal Committee as his principal campaign committee. While running for federal office, Kuhl continuously served in the New York State Senate and maintained his state committee, Friends for Kuhl ("State Committee"), which accepted contributions and made disbursements.

The Audit Division referred one audit finding to the Office of General Counsel for enforcement action. The finding relates to the Federal Committee's receipt of prohibited in-kind contributions in 2003 and 2004 from the State Committee. Specifically, based on an allocation

<sup>1</sup> Michael A. Avella served as treasurer during the audit period. Sharon A. Gunsolus has served as treasurer from October 5, 2005, to the present.

1 method reflecting the actual benefit derived by each committee as supported by invoices and  
2 other documentation supplied by the Federal Committee, the State Committee paid for expenses  
3 totaling \$22,974 that should have been paid by the Federal Committee. See 11 C.F.R.  
4 § 106.1(a)(1). See also Advisory Opinions 1978-67 (Anderson) (shared use of campaign  
5 facilities by a federal and state campaigns must be allocated in a manner that equitably reflects  
6 the actual use and benefit to each campaign) and 1994-37 (Schumer) ("payments involving  
7 expenditures on behalf of a clearly identified federal candidate and disbursements on behalf of a  
8 non-federal candidate should be attributed to each such candidate according to the benefit  
9 expected to be derived by each candidate"). These expenses included advertisements (\$150), a  
10 professional fee paid to the Federal Committee's treasurer (\$8,550), credit card purchases (\$258),  
11 and polls (\$14,016).

12 **B. Receipt of Prohibited In-Kind Contributions**

13  
14 An individual who is a candidate for both a federal and state office must designate  
15 separate committees and establish completely separate campaign organizations. See 11 C.F.R.  
16 § 110.8(d). See also Advisory Opinion 1994-37 (Schumer). Additionally, transfers of funds or  
17 assets from a candidate's campaign committee for a non-federal election to his or her principal  
18 campaign committee for a federal election are prohibited. 11 C.F.R. § 110.3(d). The purpose of  
19 this prohibition is to prevent the use in federal elections of funds raised outside the limits and  
20 prohibitions of the Act and to ensure that all funds used in federal elections are reported. Further,  
21 the Act prohibits entities directly or indirectly established, financed, maintained, or controlled by  
22 or acting on behalf of a candidate from receiving funds in connection with an election for Federal

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1 office unless the funds are subject to the limitations, prohibitions, and reporting requirements of  
2 the Act. 2 U.S.C. § 441i(e)(1)(A).

3 Here, the State Committee paid \$22,974 in expenses that should have been paid by the  
4 Federal Committee. Applicable New York state law at the time these expenses were paid  
5 permitted contributions to state committees in excess of the federal limits and contributions from  
6 corporations, and none of the state campaign funds at issue were subject to the Act's reporting  
7 provisions as required by Section 441i(e)(1)(A). Thus, the Federal Committee received  
8 prohibited in-kind contributions from the State Committee, in violation of 2 U.S.C.  
9 § 441i(e)(1)(A) and 11 C.F.R. § 110.3(d). See MUR 5426 (Dale Schultz for Congress) (Schultz  
10 Federal Committee effectively received prohibited transfer of funds when the Schultz State  
11 Committee paid for expenses that the candidate incurred in connection with his Federal election).

12 Therefore, there is reason to believe that Kuhl for Congress and Sharon A. Gunsolus, in  
13 her official capacity as treasurer, received \$22,974 in prohibited in-kind contributions from the  
14 State Committee in 2003 and 2004, in violation of 2 U.S.C. § 441i(e)(1)(A) and 11 C.F.R.  
15 § 110.3(d).

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